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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,135	01/11/2002	Kiran Venkatesh Hegde	50023.08USU1	9254
23552	7590	11/03/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			LY, ANH	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,135

Applicant(s)

HEGDE ET AL.

Examiner

Anh Ly

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 20-39 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Request for Continued Examination

1. The request filed on 008/23/2005 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 10/046,135 is acceptable and a CPA has been established. An action on the RCE as follows.
2. Claims 1-19 have been cancelled.
3. Claims 20-39 have been added.
4. Claims 20-39 are pending in this Application.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter. The claims 20-26 and 33-39 are rejected under 35 U.S.C. 101 because "a method for providing rich media presentation to a device over a network", and "a system for providing rich media presentation to a device over a network" are "descriptive material.", "abstract ideas " , Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457-58, are not patentable. Descriptive material can be characterized as "nonfunctional descriptive

material.". "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. Thus, the method, system and a computer executable program (a computer program is a executable program) are **not being tangible** to form the basis of statutory subject matter under 35 U.S.C. 101.

The claims 27-32 are also rejected under 35 U.S.C. 101 because "a modulated data signal embodied in a carrier wave."

Section 2106 of the MPEP states:

(a) Functional Descriptive Material: "Data Structures" Representing Descriptive Material Per Se or Computer Programs Representing Computer Listings Per Se. **Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory**, because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361 , 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. 'In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit . the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions.

Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory

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irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence nonstatutory.

As per independent claim 27, the applicant discloses, "a modulated data signal."

This is non-statutory as a "modulated data signal" is bearing signal such as carrier wave. because a "carrier wave" is non-tangible. Thus, claims 28-32 are rejected for their dependences upon rejected base claim 27.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 20-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pub. No.: US 20050044189 A1 of Ikezoye et al. (hereinafter Ikezoye) in view of Pub. No.: US 20020124100 A1 of Adams.

With respect to claim 20, Ikezoye teaches a method for providing rich media presentations to a device over a network (providing media content to media playing device over the Internet: Abstract, sections 0003, and 0007-0008), comprising:

receiving a request for a rich media presentation from the device before the device requests to play a media package (a user request is received via user interface for media content to play the media content with media playing device: sections 0023-0024);

determining whether the request for rich media presentation comes from a unaffiliated site (media content is comes from client media player: sections 0007-0008); and when the request comes from the unaffiliated site denying access to the devices (section 0019-0020); wherein the unaffiliated site may attempt to incorporate the rich media presentation illegally onto their site (sections 0022 and 0024-0026);

determining whether the request for rich media presentation comes from an affiliated site (sections 007-0008 and 0024-0026); and after it is determined that the request comes from the affiliated site (sections 0024-0026);

automatically generating the rich media presentation for the device (section 0069);

providing the rich media presentation to the device (sections 0007-0008); and

providing a presentation package include file that uniquely identifies the rich media presentation that is associated with an e-retailer; whether the presentation package includes file allows presentation attributes that relate to the rich media presentation to be set (sections 0019-0021, 0029, 0046-0047 and 0061).

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach detecting attributes related to the device, after detecting the attributes relating to the device, wherein the rich media presentation is optimized for the device based on the detected attributes.

However, Adams teaches attribute of devices to be detected such as streaming media players for firewalls, security devices used by business and large organization. firewall is installed for security purposes such as blocking or disrupting transmission by the hosted web: section 0005 and section 0009, bandwidth requirements attribute for streaming media: section 0007).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of detecting attributes relating to devices such as firewall, bandwidth and media players as disclosed (Adams's sections 0005-0007, 0009), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to

increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 21, Ikezoye teaches wherein generating the rich media presentation for the device (abstract and sections 0007-0008), further comprises generating a virtual player optimized for the device (abstract, sections 0016 and 0020-0021); generating a presentation package optimized for the device (sections 0019-0020 and 0029); and generating the media package for the device (sections 0045-0046).

With respect to claim 22, Ikezoye teaches determining basic operating characteristics of device and determining when the basic operating characteristics of the device are supported and when the basic operating characteristics are supported, retrieving additional attributes corresponding to the device, otherwise informing the device that the basic operating characteristics are not supported (sections 0023-0024 and 0043-0044).

With respect to claim 23, Ikezoye teaches a method for providing rich media presentations to a device over a network as discussed in the claim 1. Also, Ikezoye teaches operating characteristics to the device are supported (sections 0023-0024 and 0043-0044).

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach a set of attributes

including a language attribute, a bandwidth attribute, a firewall attribute and a permission attribute.

However, Adams teaches attribute of devices to be detected such as streaming media players for firewalls, security devices used by business and large organization. firewall is installed for security purposes such as blocking or disrupting transmission by the hosted web: section 0005 and section 0009, bandwidth requirements attribute for streaming media: section 0007).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of detecting attributes relating to devices such as firewall, bandwidth and media players as disclosed (Adams's sections 0005-0007, 0009), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 24, Ikezoye teaches determining when the rich media presentation is cached within the device, and when cached, determining when there is an update to the rich media presentation available, and when an update is available, providing a different rich media presentation to the device, otherwise utilizing the rich media presentation cached within the device (sections 0022-0023 and 0053-0054).

With respect to claim 25, Ikezoye teaches determining when the rich media presentation is cached on a Content Delivery Network, and when, providing the rich

media presentation to the device from the Content delivery network, otherwise providing the rich media presentation from an origin server (sections 0049-0050 and 0066).

With respect to claim 26, Ikezoye teaches a method for providing rich media presentations to a device over a network as discussed in the claim 1.

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach a web site the device is visiting is not affiliated with the provider.

However, Adams teaches web site with the provider (sections 0023 and 0243).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of web site the device being visiting as disclosed (Adams's sections 0023 and 0243), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 27, Ikezoye teaches receiving a request for a rich media presentation from the device when the device accesses a page including a single line request that is used to obtain an include file from the provider (a user request is received via user interface for media content to play the media content with media playing device: sections 0023-0024);

determining when the request for the rich media presentation comes from a supported site, and when the request comes from a supported site (sections 007-0008 and 0024-0026);

determining when the device is authorized to receive the rich media presentation by determining whether the device is accessing an authorized e-retailer, and after determining the device is authorized (sections 007-0008 and 0024-0026);

automatically generating the rich media presentation for the device when needed, wherein the rich media presentation is optimized (section 0069); and

providing the rich media presentation to the device (providing media content to media playing device over the Internet: Abstract, sections 0003, and 0007-0008).

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach detecting attributes related to the device, and the detected attributes relating to the device.

However, Adams teaches attribute of devices to be detected such as streaming media players for firewalls, security devices used by business and large organization. firewall is installed for security purposes such as blocking or disrupting transmission by the hosted web: section 0005 and section 0009, bandwidth requirements attribute for streaming media: section 0007).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings

of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of detecting attributes relating to devices such as firewall, bandwidth and media players as disclosed (Adams's sections 0005-0007, 0009), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 28, Ikezoye teaches wherein generating the rich media presentation for the device (abstract and sections 0007-0008), further comprises generating a virtual player optimized for the device when requested (abstract, sections 0016 and 0020-0021); generating a presentation package optimized for the device when requested (sections 0019-0020 and 0029); and generating the media package for the device when requested (sections 0045-0046).

With respect to claim 29, Ikezoye teaches determining basic operating characteristics of device and determining when the basic operating characteristics of the device are supported and when the basic operating characteristics are supported, retrieving additional attributes corresponding to the device, otherwise informing the device that the basic operating characteristics are not supported (sections 0023-0024 and 0043-0044).

With respect to claim 30, Ikezoye teaches a method for providing rich media presentations to a device over a network as discussed in the claim 1. Also, Ikezoye teaches operating characteristics to the device are supported (sections 0023-0024 and 0043-0044).

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach a set of attributes including a language attribute, a bandwidth attribute, a firewall attribute and a permission attribute.

However, Adams teaches attribute of devices to be detected such as streaming media players for firewalls, security devices used by business and large organization. firewall is installed for security purposes such as blocking or disrupting transmission by the hosted web: section 0005 and section 0009, bandwidth requirements attribute for streaming media: section 0007).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of detecting attributes relating to devices such as firewall, bandwidth and media players as disclosed (Adams's sections 0005-0007, 0009), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 31, Ikezoye teaches determining when the rich media presentation is up-to date within the device and when using the rich media within the

device, otherwise providing a different rich media presentation to the device (sections 0022-0023 and 0053-0054).

With respect to claim 32, Ikezoye teaches determining when the different rich media presentation is cached on a Content Delivery Network, and when, providing the different rich media presentation to the device from the Content delivery network, otherwise providing the different rich media presentation from an origin server (sections 0049-0050 and 0066).

With respect to claim 33, Ikezoye teaches a system for providing a rich media presentation to a device over a network, comprising: a processor and a computer-readable medium, an operating environment stored on the computer-readable medium and executing on the processor, a communication connection device operating under control of the operating environment, and a rich media presentation application operating under control of the operating environment and operative to perform actions (fig. 1 abstract and providing media content to media playing device over the Internet: Abstract, sections 0003, 0007-0008, 0016 and 0018); including:

receiving a request for a rich media presentation from the device when the device accesses a page on the network, the page including a single line that identifies an include file relating to the provider of the rich media presentation (over the Internet network including a plurality of web pages: a user request is received via user interface for media content to play the media content with media playing device: sections 0023-0024);

determining when the request for the rich media presentation comes from a supported site, and when the request comes from a supported site (sections 007-0008 and 0024-0026);

determining when the device is authorized to receive the rich media presentation by determining whether the device is accessing an authorized e-retailer, and after determining the device is authorized (sections 007-0008 and 0024-0026);

automatically generating the rich media presentation for the device when needed, wherein the rich media presentation is optimized (section 0069); and

providing the rich media presentation to the device (providing media content to media playing device over the Internet: Abstract, sections 0003, and 0007-0008).

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach detecting attributes related to the device, and the detected attributes relating to the device.

However, Adams teaches attribute of devices to be detected such as streaming media players for firewalls, security devices used by business and large organization. firewall is installed for security purposes such as blocking or disrupting transmission by the hosted web: section 0005 and section 0009, bandwidth requirements attribute for streaming media: section 0007).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings

of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of detecting attributes relating to devices such as firewall, bandwidth and media players as disclosed (Adams's sections 0005-0007, 0009), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 34, Ikezoye teaches wherein generating the rich media presentation for the device (abstract and sections 0007-0008), further comprises generating a virtual player optimized for the device when requested (abstract, sections 0016 and 0020-0021); generating a presentation package optimized for the device when requested (sections 0019-0020 and 0029); and generating the media package for the device when requested (sections 0045-0046).

With respect to claim 35, Ikezoye teaches determining basic operating characteristics of device and determining when the basic operating characteristics of the device are supported and when the basic operating characteristics are supported, retrieving additional attributes corresponding to the device, otherwise informing the device that the basic operating characteristics are not supported (sections 0023-0024 and 0043-0044).

With respect to claim 36, Ikezoye teaches a method for providing rich media presentations to a device over a network as discussed in the claim 1. Also, Ikezoye teaches operating characteristics to the device are supported (sections 0023-0024 and 0043-0044).

Ikezoye teaches identifying media content presented over a media playing device over the Internet. A user that would like to listen to Internet music/radio would use client application and direct the client application to the appropriate server computer such as from a unaffiliated site and an affiliated site. Ikezoye does not teach a set of attributes including a language attribute, a bandwidth attribute, a firewall attribute and a permission attribute.

However, Adams teaches attribute of devices to be detected such as streaming media players for firewalls, security devices used by business and large organization. firewall is installed for security purposes such as blocking or disrupting transmission by the hosted web: section 0005 and section 0009, bandwidth requirements attribute for streaming media: section 0007).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Ikezoye with the teachings of Adams. One having ordinary skill in the art would have found it motivated to utilize the use of detecting attributes relating to devices such as firewall, bandwidth and media players as disclosed (Adams's sections 0005-0007, 0009), into the system of Ikezoye for the purpose of taking advantage of firewalls, bandwidth, and media player to increase efficiency and improve the speed, thereby, being for security purposes over the network.

With respect to claim 37, Ikezoye teaches determining when the rich media presentation is up-to date within the device and when using the rich media within the

device, otherwise providing a different rich media presentation to the device (sections 0022-0023 and 0053-0054).


With respect to claim 38, Ikezoye teaches determining when the different rich media presentation is cached on a Content Delivery Network, and when, providing the different rich media presentation to the device from the Content delivery network, otherwise providing the different rich media presentation from an origin server (sections 0049-0050 and 0066).

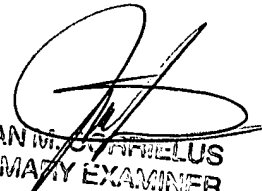
With respect to claim 39, Ikezoye teaches providing a presentation package include file to the device that uniquely identifies the rich media presentation that is associated with an e-retailer; whether the presentation package includes file allows presentation attributes that relate to the rich media presentation to be set (sections 0019-0021, 0029, 0046-0047 and 0061).

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh Ly whose telephone number is (571) 272-4039 or via E-Mail: ANH.LY@USPTO.GOV or fax to **(571) 273-4039**. The examiner can normally be reached on TUESDAY – THURSDAY from 8:30 AM – 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene, can be reached on (571) 272-4107 or **Primary Examiner Jean Corrielus (571) 272-4032**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, or faxed to: **Central Fax Center (571) 273-8300**

ANH LY 
OCT. 25th, 2005


JEAN M. CORRIELUS
PRIMARY EXAMINER